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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,911	03/05/2002	Hugo Jean Marie Demeyere	8449M	6590

27752 7590 10/17/2005

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

HARDEE, JOHN R

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,911

Applicant(s)

DEMEYERE ET AL.

Examiner

John R. Hardee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24 and 30-57 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 24 and 30-57 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09202005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 20, 2005 has been entered.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 24 and 30-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/57259 in view of Merz, US 3,888,391. The WO discloses fabric care compositions comprising a modified cellulase. Surfactant is typically present at a most preferable range of 1% to 30% by weight (p. 18, 2nd para). Cationic softeners are preferred, and include coconut dimethyl hydroxyethyl ammonium chloride, which is disclosed as especially preferred (p 20, bottom). Typical softening components include distearoyloxyethyl dimethyl ammonium chloride (p. 21, 12)). Total cationic content is preferably about 1-8% (p. 23, 2nd para.) Addition of silicone antifoaming agents, perfume and HCl in amounts which meet the limitations of applicant's elected composition are exemplified. Note, in particular Example 15 on p. 78, which discloses a DEQA rinse

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added fabric softener in combination with a suds suppressor. It is well known in the surfactant art that substantial amounts of monoester are present in commercially available DEQA fabric softening compositions, so applicant's recitation of the addition of a surfactant scavenger does not add patentable weight. The presence of the monoester meets the limitation of about 1:1 to 1.6:1 fatty acid:amine. Note the teaching at the 3rd full paragraph on p. 16 that the compositions may be used for manual treatment of fabrics and as softening treatments after laundering. The examiner takes the position that this passage may be fairly construed as teaching the use of the disclosed compositions for softening by hand after laundering. The reference does not disclose the use of such a composition in a first rinse bath.

Merz discloses a dispenser for use in automatic washing machines which is actuated in the first spin which follows the wash cycle. The dispenser opens during this spin and dispenses the contents during the first rinse (abstract). In the first paragraph of the specification, use for dispensing liquid fabric softeners is disclosed. It would have been obvious at the time that the invention was made to use the composition of the WO in the first rinse bath of a washing machine, because Merz discloses a device for dispensing liquid fabric softener in the first rinse cycle. In the absence of any teaching to the contrary, the utility of the device with fabric softeners generally may be fairly inferred.

Response to Arguments

4. Applicant's arguments filed September 20, 2005 have been fully considered but they are not persuasive. Applicant argues that the WO does not teach the addition of fabric softener during the first rinse cycle of a washing machine. This is correct, but it is not persuasive because the examiner has cited a reference which discloses a device, developed by applicant's assignee, for doing exactly that. Use of a known fabric softener in such a device would be obvious, because the Merz reference teaches that the device is useful for liquid and granular fabric softeners generally.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (571) 272-1316.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "J. Hardee", with a stylized, cursive script.

John R. Hardee
Primary Examiner
October 12, 2005